

<sup>1</sup> An oral argument before the Board, scheduled for November 9, 2005, was canceled on November 4, 2005 at appellant's request.

## **FACTUAL HISTORY**

On July 2, 1999 appellant, then a 49-year-old staff nurse, filed a claim for compensation alleging that on June 30, 1999 she sustained a low back strain in the performance of duty when she attempted to catch a patient who was falling.

On November 3, 1999 the Office asked appellant to submit additional information to support her claim, including a detailed narrative medical report that included, among other things, a physician's opinion, supported by a medical explanation, as to how the reported work incident caused or aggravated the claimed injury. The Office noted: "This explanation is crucial to your claim."

The Office received reports of diagnostic studies, physical therapy notes and a September 16, 1999 report from Dr. Frederick E. Finger III, a Board-certified neurosurgeon. He related a consistent history of injury, Dr. Finger's findings on physical examination and the results of studies. Dr. Finger diagnosed degenerative disc disease.

In a decision dated April 11, 2000, the Office denied appellant's claim for compensation. It found that the evidence of record supported that she experienced the claimed incident of June 30, 1999. However, the medical evidence did not establish a condition diagnosed in connection with the incident. The Office noted that Dr. Finger did not report a condition that was causally related to the work incident. Instead, he diagnosed a condition that develops over time, rather than being caused by a single incident.

Appellant requested a review of the written record. She submitted a May 10, 2000 report from Dr. Michael L. Dockery, a Board-certified orthopedic surgeon, who related her history, his findings on physical examination and the results of diagnostic studies. He diagnosed lumbosacral strain/sprain. Dr. Joseph P. Zuhosky, a Board-certified specialist in physical medicine and rehabilitation, offered a similar report on June 15, 2000. He diagnosed lumbar degenerative disc disease and right sacroiliac joint dysfunction with anterior innominant.

In a decision dated August 30, 2000, finalized on August 31, 2000, an Office hearing representative affirmed the denial of appellant's claim for compensation. He found that she failed to submit sufficient medical evidence from a physician to establish that her back condition was causally related to the accepted employment incident.

On November 6, 2000 appellant requested reconsideration. She submitted an October 4, 2000 report from Dr. Dockery, who stated:

"I am writing in regard to [appellant,] who has come under our care secondary to an injury on June 30, 1999 in which she caught a patient weighing approximately 200 [pounds]. Since that time she has had persistent low back pain with transient radiation into her legs. We feel that [appellant's] injuries from June 30, 1999 did aggravate [her] degenerative dis[c] disease and has resulted in [sacroiliac joint] dysfunction as per Dr. Zuhosky's note. Again, we do feel that this is an aggravation of the degenerative dis[c] disease and was caused by the precipitating injury of June 30, 1999."

In a decision dated January 8, 2003,<sup>2</sup> the Office reviewed the merits of appellant's claim and denied modification of the August 31, 2000 decision. The Office found that Dr. Dockery's opinion was not sufficient to establish a relationship between her degenerative disc disease and the June 30, 1999 incident because he did not see appellant until almost a year after the incident and his opinion was not supported by rationale.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</sup> has the burden of proof to establish the essential elements of her claim. When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an injury.<sup>4</sup>

Causal relationship is a medical issue<sup>5</sup> and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>6</sup> must be one of reasonable medical certainty<sup>7</sup> and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.<sup>8</sup>

### **ANALYSIS**

The Office accepted that the June 30, 1999 incident at work occurred as alleged. The remaining issue is whether this incident caused an injury.

Causal relationship must be established by medical opinion evidence. The only medical opinion appearing in the record is the report of Dr. Dockery on October 4, 2000. He wrote that the June 30, 1999 incident in which appellant caught a patient weighing approximately 200

---

<sup>2</sup> There was an intervening appeal to this Board, which remanded the case to the Office for proper consideration of appellant's November 6, 2000 request for reconsideration. Docket No. 02-1116 (issued November 22, 2002).

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> See generally *John J. Carlone*, 41 ECAB 354 (1989); *Abe E. Scott*, 45 ECAB 164 (1993); see also 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(a)(15)-.5(a)(16) ("traumatic injury" and "occupational disease or illness" defined).

<sup>5</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>6</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>7</sup> See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>8</sup> See *William E. Enright*, 31 ECAB 426, 430 (1980).

pounds, aggravated her degenerative disc disease and resulted in sacroiliac joint dysfunction. However, Dr. Dockery did not fully explain how he reached his conclusion. He offered no medical reasoning to demonstrate how his conclusion was based on the established facts of the case and appellant's medical history. Mere conclusions unsupported by rationale are of diminished probative or evidentiary value.<sup>9</sup> The opinion of the physician must be based on a complete factual and medical background and must be supported by rational explaining the nature of the relationship between the diagnosed medical condition and the accepted employment factors.<sup>10</sup> Dr. Dockery's report failed to provide a review of appellant's medical background or adequate reasoning for his stated conclusions. The mere fact that a disease or condition manifests itself during a period of employment is not sufficient to establish causal relation.<sup>11</sup> Because the medical opinion evidence in this case is not well rationalized, the Board will affirm the denial of appellant's claim.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof. The June 30, 1999 incident at work is established as factual, but the medical opinion evidence does not show that this incident caused her diagnosed low back condition.

---

<sup>9</sup> *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

<sup>10</sup> *See John F. Glynn*, 53 ECAB 562 (2002).

<sup>11</sup> *See Allen C. Hundley*, 53 ECAB 551 (2002).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 8, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 12, 2006  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board